

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**  
**DAVID G. GIFFORD,**

**Petitioner,**

**9:19-cv-194  
(GLS/DJS)**

**v.**

**M. THOMS,**

**Respondent.**

**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PETITIONER:**

David G. Gifford  
Pro Se  
16-B-0799  
Five Points Correctional Facility  
Call Box 119  
Romulus, NY 14541

**FOR THE RESPONDENT:**

HON. LETITIA JAMES  
Attorney General of the  
State of New York  
28 Liberty Street  
New York, NY 10005

PAUL B. LYONS  
Assistant Attorney General

**Gary L. Sharpe**  
**Senior District Judge**

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation and Order (R&R) by Magistrate Judge Daniel J. Stewart duly filed on September 11, 2020. (Dkt. No. 18.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all

objections filed by the parties herein.

No objections having been filed,<sup>1</sup> and the court having reviewed the R&R for clear error, it is hereby

**ORDERED** that the Report-Recommendation and Order (Dkt. No. 18) is **ADOPTED** in its entirety; and it is further

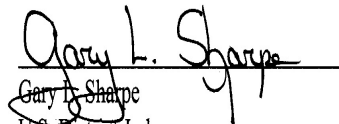
**ORDERED** that the petition (Dkt. No. 1) is **DENIED** and **DISMISSED** and it is further

**ORDERED** that no certificate of appealability will be issued because petitioner has failed to make “a substantial showing of the denial of a constitutional right” as required by 28 U.S.C. § 2253(c)(2); and it is further

**ORDERED** that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

**IT IS SO ORDERED.**

September 30, 2020  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge

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<sup>1</sup> On July 27, 2020, a change of address form that had been sent to petitioner was returned to sender with the notation “paroled.” (Dkt. No. 17.) A deputy clerk verified that petitioner was released on July 3, 2020. (*Id.*) Petitioner has failed to promptly notify the court and all parties or their counsel of any change in his address in compliance with the court’s February 15, 2019 Order, (Dkt. No. 4), and Local Rule 10.1(c)(2). The court notes that petitioner’s copy of the Report-Recommendation and Order was returned as “refused—unable to forward” for the same reason. (Dkt. No. 19).